

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

GERALD J. KLEIN, on behalf of himself and  
all similarly situated;

Plaintiff,

vs.

TD AMERITRADE HOLDING  
CORPORATION, TD AMERITRADE, INC.,  
and FREDRIC TOMCZYK,

Defendants.

**8:14CV396**

**SECOND AMENDED  
PROGRESSION ORDER**

On October 4, 2017, following a telephone conference with counsel, the Court ordered counsel to confer and submit a proposed revised case progression schedule by October 13, 2017, reflecting a deadline for Plaintiff's rebuttal reports of November 15, 2017, and an extension of the deadline for expert witness depositions. The parties conferred and agreed upon the schedule set forth below, which the Court hereby adopts.

Accordingly,

**IT IS ORDERED** that the provisions of the Court's earlier, initial progression order remain in effect, and in addition to those provisions, the following shall apply:

**1. Depositions.** The parties represent that they have completed fact depositions with regard to the issue of class certification. Plaintiff shall depose Defendants' expert prior to **November 8, 2017**, and Defendants shall depose Plaintiff's experts by **December 15, 2017**.

**2. Expert Discovery.** The parties represent that they have served expert reports with regard to the issue of class certification, along with any backup data. Plaintiff shall serve rebuttal expert reports by **November 15, 2017**.

**3. Class Certification and Motions in Limine.**

- a. Plaintiff's motions for class certification and motions in limine challenging Defendants' expert witness testimony shall be filed by **November 20, 2017**.
- b. Defendants' responses to Plaintiff's motion for class certification, any motions in limine challenging Plaintiff's expert witness testimony, and any responses to Plaintiff's

motions in limine challenging Defendants' expert witness testimony shall be filed by **January 19, 2018**.

- c. Plaintiff's reply in support of class certification, any responses to Defendants' motions in limine challenging Plaintiff's expert witness testimony, and replies in support of Plaintiff's motions in limine challenging Defendants' expert testimony shall be filed by **February 19, 2018**.
- d. Defendants' replies in support of Defendants' motions in limine challenging Plaintiff's expert testimony shall be filed by **March 5, 2018**.

**4.** An **Evidentiary Hearing** with Magistrate Judge Susan M. Bazis is set for **March 27, 2018, at 10:00 a.m.** in chambers, 111 South 18th Plaza, Suite 2271, Roman L. Hruska United States Courthouse, Omaha, Nebraska, to consider all questions coming within the class action issues under Fed. R. Civ. P. 23(a) and (b). At the hearing, the parties may present extracts of depositions, interrogatories, and documentary evidence relevant to any factual dispute, as well as live testimony from expert witnesses. Following the hearing, Magistrate Judge Susan M. Bazis will submit a Findings and Recommendation to Senior United States District Court Judge Joseph F. Bataillon regarding class certification. The evidentiary hearing shall be attended by lead counsel for represented parties

Dated October 12, 2017.

BY THE COURT:

s/ Susan M. Bazis  
United States Magistrate Judge